

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON HIGHWAYS AND TRANSPORTATION**

**Call to Order:** By **CHAIRMAN ARNIE MOHL**, on March 23, 1999 at 3:10 P.M., in Room 410 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Arnie Mohl, Chairman (R)  
Sen. Ric Holden, Vice Chairman (R)  
Sen. Mack Cole (R)  
Sen. Bob DePratu (R)  
Sen. John Hertel (R)  
Sen. Reiny Jabs (R)  
Sen. Greg Jergeson (D)  
Sen. Glenn Roush (D)

**Members Excused:** Sen. Debbie Shea (D)  
Sen. Spook Stang (D)  
Sen. Daryl Toews (R)

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Branch  
Phoebe Olson, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Discussions with Montana Department of Transportation .

**SENATOR MOHL**, explained that the Department was having problems buying right-of-way, and they had been working on some language for a resolution that might help them. **EXHIBIT(his65a01)** He remarked he would be receiving a copy of Idaho's law, which was similar to what they were trying to accomplish.

**Tim Reardon**, explained exhibit one. He said a "quick take" would eliminate the necessity hearing, allow the Department to go on

with the project and the value differences were worked out at a later date. He explained that this was a dramatic change from what was done in Montana at the present time. The second thing he handed out was an alternative to the "quick take" law, that cut down the time it would take to determine necessity.

**EXHIBIT (his65a02)**

**Connie Erickson**, explained that the rules would have to be suspended to introduce anything but an interim study resolution.

**SENATOR MOHL**, said he thought that **SENATOR HARP** was going to try to waive the rules, but he said he would have to make sure that was the case.

**Mike Foster**, suggested that **SENATOR MOHL** make a motion on the Floor to waive the rule for the purpose of late introduction of bills.

**SENATOR COLE**, asked why they were bringing this in at such a late date.

**SENATOR MOHL**, said that the concerns were brought forth in a meeting with the Governor and the Department the other day. They asked what was delaying the projects and the Department said the major delays were purchasing right-of-way.

**SENATOR COLE**, said they had some eminent domain bill discussed in the session already. He wondered how many projects were delayed because of not having right-of-way.

**Gary Gilmore**, said approximately half of the projects were delayed to some extent by inability to get right-of-way in a timely manner.

**SENATOR COLE**, said they wanted to be real careful when it came to property rights because he was sure it would be a very controversial issue.

**SENATOR MOHL**, said this only would cut the time down it took to have a hearing.

**Tim Reardon**, replied that was correct. This would still allow the opportunity to challenge the design of the project but shorten the time it took to get a hearing and a decision.

**SENATOR MOHL**, said the first exhibit would take away property rights and he was leary about that. The second exhibit was less intrusive and sounded like it could work.

**SENATOR JABS**, questioned if the reason this was coming up at this late date was because of the additional highway funding.

**SENATOR MOHL**, said the reason for this was the Department was having a hard time spending the money because the jobs were being delayed, and he thought this would help those projects get under way.

**Jan Brown**, said the state had to spend on an annual basis obligated authority or they would lose the money. She maintained if the money wasn't spent when legislation came up again it would certainly be taken into account that the money wasn't needed.

**SENATOR MOHL**, said he had quite a lengthy conversation with Kathy Ruffelo and she had clued him in on how some of these things worked. He explained what Kathy had told him about how highway funds were spent.

**Jan Brown**, said it was difficult to tell exactly what would happen. She said TEA-21 was written differently. In the past they had always had an authorization level and then an obligation level. She maintained that in the August redistribution, what occurred was most states used their obligation authority then asked for additional authority to spend their money.

**SENATOR MOHL**, said if you didn't have your special and exempt money spent by or obligated by the first of August then you wouldn't be selected for grab bag money.

**Jan Brown**, agreed.

**Jim Currie**, said grab bag money was essentially the authority to spend the difference between your obligation and your apportioned money.

**SENATOR COLE**, asked on page two of exhibit two how long the special master had to make a recommendation on the order.

**Tim Reardon**, said it would make sense to add an amendment that recommenced he make a decision within ten days.

**SENATOR COLE**, asked if it then went to court and they had ten days to make a final decision.

**Tim Reardon**, replied that it went back to court because only the judge was Constitutionally empowered to finalize the order. He said the use of a special master was not out of the ordinary.

**SENATOR HOLDEN**, explained **SENATOR MOHL**, had left to explore the possibility of getting a bill through the system. He allowed for more questions. He asked if the State of Montana was guaranteed five years of this money before Congress looked at it again.

**Marv Dye**, said the current bill expired September 30, 2003.

**SENATOR HOLDEN**, asked if they didn't use this years allotment of money what would happen next year.

**Marv Dye**, said you would have to let that many more projects the next year. He said it was important to spend as close to the maximum amount as possible and not to carry over a lot or you could get in real trouble.

**SENATOR HOLDEN**, asked if the Department had a hold on it so that Montana would not lose the money.

**Marv Dye**, said they were fairly confident that given the resources, they had a good chance of delivering. He said the potential barriers were right-of-way issues, consultants delivering this much work, and being allowed to hire the resources they would need.

**SENATOR JABS**, asked if there were projects that could move ahead now that didn't have right-of-way problems.

**Marv Dye**, said reconstruction projects required additional right-of-way.

**SENATOR ROUSH**, wondered if they should tackle this project now to expedite the construction process, or if they should wait two years which would delay projects.

**Marv Dye**, said they could be back in two years saying this type of legislation was absolutely necessary but maybe not. He said they had never felt comfortable pushing this kind of bill forward even though it would make their job easier. **{Tape : 1; Side : B; Approx. Time Counter : 351; Comments : turn tape over}** He said he did not feel bad about this bill because it was tied to national standards.

**SENATOR COLE**, asked, when they started on a project that would have right-of-way, how far ahead of time they tried to purchase it.

**Marv Dye**, said right-of-way people were involved in the very earliest stages of planning. He maintained they didn't start the appraisals or negotiations until they had a final design.

**SENATOR COLE**, maintained that people were well aware of the project before construction even started. He said it might help if the right-of way acquisition process was moved up even farther.

**Jim Currie**, said the right-of-way phase was supposed to last 18 months, in order to let the project on time.

**Marv Dye**, explained that if everything went perfectly there were time lines for completing every piece of the project. And if everyone did everything on time the right-of-way phase should have 18 months to appraise and purchase land.

**SENATOR COLE**, maintained then this bill would help to shorten those time lines.

**SENATOR HOLDEN**, adjourned the meeting until they could find out if introducing this legislation would even be possible.

**ADJOURNMENT**

Adjournment: 3:57 P.M.

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SEN. ARNIE MOHL, Chairman

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PHOEBE OLSON, Secretary

AM/PO

**EXHIBIT** (his65aad)